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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE ENPHASE ENERGY, INC. DERIVATIVE
LITIGATION

LEAD CASE NO. 5:20-cv-04623-BLF

**STIPULATION AND [PROPOSED]
ORDER REGARDING VOLUNTARY
DISMISSAL**

Judge: Hon. Beth Labson Freeman

1 **WHEREAS**, on July 10, 2020, Yan Shen filed a shareholder derivative action
 2 purportedly on behalf of nominal defendant Enphase Energy, Inc. (“Enphase”) in this Court
 3 against Badrinarayanan Kothandaraman, Eric Branderiz, Mandy Yang, Steven J. Gomo,
 4 Benjamin Kortlang, Richard Mora, and Thurman J. Rodgers (collectively, the “Individual
 5 Defendants” and with Enphase, “Defendants”), captioned *Shen v. Kothandaraman, et al.*, Case
 6 No. 3:20-cv-04623 (the “Shen Action”);

7 **WHEREAS**, on September 24, 2020, the court entered the parties’ stipulation staying the
 8 Shen Action pending the resolution of any motion(s) to dismiss filed in the related securities
 9 class action captioned *Hurst v. Enphase Energy, Inc.*, Case No. 5:20-cv-04036-BLF (the “Hurst
 10 Action”), in which the plaintiffs asserted federal securities fraud claims against Enphase and
 11 certain of its officers;

12 **WHEREAS**, on October 28, 2020, Benjamin Weber filed a shareholder derivative action
 13 purportedly on behalf of Enphase alleging substantially the same facts and claims as those in the
 14 Shen Action, captioned *Weber v. Kothandaraman, et al.*, Case No. 3:20-cv-07587 (the “Weber
 15 Action”);

16 **WHEREAS**, on November 20, 2020, the Court entered the parties’ stipulation in the
 17 above-captioned case to consolidate the Shen and Weber Actions (and any subsequently filed
 18 related derivative actions), to apply the stay entered in the Shen Action to the consolidated
 19 action, and to appoint co-lead counsel for plaintiffs in the consolidated action (Dkt. No. 31);

20 **WHEREAS**, on December 2, 2020, the Court entered the parties’ stipulation in the
 21 above-captioned case consolidating a newly filed derivative action filed in this Court captioned
 22 *Buch v. Kothandaraman, et al.*, Case No. 3:20-cv-08131, into the above-captioned case (Dkt.
 23 No. 33);

24 **WHEREAS**, on December 24, 2020, the Court entered the parties’ stipulation in the
 25 above-captioned action consolidating a newly filed derivative action filed in this Court captioned
 26 *Caggiano v. Kothandaraman, et al.*, Case No. 3:20-cv-08715, into the above-captioned case
 27 (Dkt. No. 37);
 28

WHEREAS, on August 17, 2021, the Court granted the defendants' motion to dismiss with leave to amend in the Hurst Action;

WHEREAS, on October 18, 2021, the Court entered final judgment in favor of defendants in the Hurst Action;

WHEREAS, in light of the Court's ruling on defendants' motion to dismiss the Hurst Action, the parties have agreed to the voluntary dismissal of this action without prejudice pursuant to Federal Rule of Civil Procedure 41(a) with each party to bear its own costs;

WHEREAS, neither Enphase, nor any Defendant has made or promised any payment, direct or indirect, to plaintiffs or their counsel in consideration of the dismissal of this action;

WHEREAS, no party in this action shall seek reimbursement from any other party of any fees, costs, expenses, or damages in connection with the filing, prosecution, defense or dismissal of this action;

WHEREAS, this Stipulation Regarding Voluntary Dismissal is without prejudice and does not constitute or imply any admission or confession by any party regarding the basis for the plaintiffs' allegations in the consolidated derivative actions or the merits of any claims or defenses raised therein.

NOW, THEREFORE, the parties hereby jointly request that the Court enter an Order dismissing the above-captioned action without prejudice pursuant to Federal Rule of Civil Procedure 41(a), with each party to bear their own costs and attorneys' fees.

Dated: December 2, 2021

LATHAM & WATKINS LLP

By /s/ Colleen C. Smith
Colleen C. Smith

Attorneys for Defendants

1 Dated: December 2, 2021

THE ROSEN LAW FIRM, P.A.

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9 Pursuant to Civil L.R. 5-1(i)(3), all signatories concur in filing this Joint Stipulation.

10 Dated: December 2, 2021

/s/ Colleen C. Smith
Colleen C. Smith

[PROPOSED] ORDER

The Court has reviewed the parties' Stipulation Regarding Voluntary Dismissal. Based upon that Stipulation and for good cause shown, IT IS HEREBY ORDERED THAT the above-captioned action is hereby DISMISSED without prejudice pursuant to Federal Rule of Civil Procedure 41(a), with each party to bear their own costs and attorneys' fees.

Dated: _____

The Hon. Beth Labson Freeman
United States District Judge